

# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

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## COMPLETE TITLE OF CASE

IN THE INTEREST OF: K.R.,

Respondent,

v.

D.D.,

Appellant.

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**DOCKET NUMBER WD78852**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** February 23, 2016

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## APPEAL FROM

The Circuit Court of Jackson County, Missouri  
The Honorable John M. Torrence, Judge

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## JUDGES

Division Two: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

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## ATTORNEYS

Kyla J. Grove and A. Renae Adamson  
Kansas City, MO

Guardians *ad litem*/Attorneys for Respondent,

Henry C. Service  
Kansas City, MO

Attorney for Appellant.

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE INTEREST OF: K.R., )  
 )  
 Respondent, )  
v. ) **OPINION FILED:**  
 ) **February 23, 2016**  
D.D., )  
 )  
 Appellant. )

**WD78852**

**Jackson County**

**Before Division Two Judges:** Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

D.D. (Grandmother), the maternal grandmother of K.R., appeals the trial court's dismissal of her petition to adopt K.R. K.R.'s foster parents filed a petition for termination of parental rights and adoption of K.R. Subsequently, Grandmother filed a separate petition to adopt K.R. Grandmother never filed a motion to intervene in the foster parents' case, but she did file a motion to consolidate in that case. The cases were not consolidated, and the trial court granted foster parents' petition, terminating the natural parents' rights and ordering that foster parents be named K.R.'s adoptive parents. The trial court subsequently dismissed Grandmother's petition, apparently without first providing notice or holding a hearing. Grandmother argues that the trial court deprived her of her due process rights by dismissing the petition without notice and hearing. We dismiss the appeal because it is moot.

### **APPEAL DISMISSED.**

#### **Division Two holds:**

1. A court must consider mootness before considering the merits of this dispute, because an appellate court is not permitted to review moot claims of error.
2. Generally, an appellate court does not consider matters outside of the record in addressing an issue before it. An exception to that rule occurs when it is necessary to determine if the case on appeal has been rendered moot.

3. A case is moot when the circumstances that surround it change sufficiently to cause a legal controversy to cease, and a decision by the judiciary would be insignificant in providing effective relief.
4. The judgment granting adoption of the child by the foster parents is now legally and finally binding. As a result of that judgment, Grandmother's appeal of the denial of her petition for adoption becomes moot. The trial court is without authority to enter a judgment inconsistent with the existing judgment in foster parents' separate case. Accordingly, regardless of whether this court agrees with the trial court's dismissal of Grandmother's petition without notice and hearing, a remand to the trial court would be futile.
5. Where a case has become moot, dismissal is appropriate.
6. The exception to the mootness doctrine exists for "acts capable of repetition yet evading review." This exception is applicable when a case presents an issue that (1) is of general public interest; (2) will recur; and (3) will evade appellate review in future live controversies.
7. There is nothing related to the factual or procedural posture of this case that will cause any issues to evade appellate review in future live controversies. The reason that Grandmother's case is being dismissed is that she failed to seek remedy in, and review of, the foster parents' adoption case. When that case became final, Grandmother could not receive relief in her own case.

**Opinion by: Karen King Mitchell, Judge**

February 23, 2016

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.